Supreme Court, U.S.
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No._____

In The

Supreme Court of the United States

Julian C. Godwin

Petitioner

v.

Loftin Martin

Respondent

On Petition for Writ of Certiorari
To the Alabama Supreme Court

PETITION FOR A WRIT OF CERTIORARI

Julian C. Godwin, Pro Se
2648 Royal Downing Court
Montgomery, AL 36117
334 953 2960

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43 pgs

QUESTIONS PRESENTED

Whether a party, who was duly assigned personal representative capacity by a Probate Court, can represent and settle his dead sister's estate without a lawyer/attorney.

Whether the State rule on Practice of Law, which prevents the party from representing and settling his sister's estate without an attorney, is repugnant to US Constitutional Rights and Civil Rights.

Whether a Jury Trial is a Right pursuant to US Constitutional Rights and Civil Rights of the aggrieved party in a trial to settle his dead sister's estate and whether State Rules of Civil Procedure impugn Rights to a Jury Trial.

Whether a trial to settle an Estate, which includes Real Property, can be held and judgments made WITHOUT representation of the ESTATE present at the trial.

Whether the aggrieved party has the US Constitutional Right or Civil Right to demand remedy when two or more persons, non-parties to a State Court Hearing, conspire and threaten the aggrieved party with full approval and recognition of the parties by the Court.

Whether the aggrieved party has a US Constitutional or Civil Right to demand an Intervention by Right of close kinship to help in the settlement of his dead sister's estate.

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"...in any case of conspiracy set forth in this section, if one or more persons engaged therein do, cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators..."

USC TITLE 42, SECTION 1983, CIVIL ACTION FOR DEPRIVATION OF RIGHTS 2,11,13,17

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Other Authorities

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U.S. CONSTITUTION. AMENDMENT VII, RIGHT TO TRIAL BY JURY 2,6,12

SECTION 2 OF THE 1871 CIVIL RIGHTS ACT, 17 STAT. 2,11,15
...“or for the purpose of preventing or hindering the constituted authorities of any State from giving or securing to all persons within such state the equal protection of the laws, or shall conspire together for the purpose of in any manner impeding, hindering, obstructing, or defeating the due course of justice in any State or Territory, with intent to deny to any citizen of the United States the due and equal protection of the laws, or to injure any person in his person or property...”

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PETITION FOR WRIT OF CERTIORARI

Petitioner requests that a writ of certiorari be issued to review the judgment of the Supreme Court of Alabama.

OPINION BELOW

The judgment on April 19, 2002 overruling an application for Rehearing by the Supreme Court of Alabama is Appendix A.

The Supreme Court of Alabama judgment on February 22, 2002, Affirmed with No Opinion, the Alabama Circuit Court judgment denying Petitioner Godwin's Appeal of the Alabama Circuit Court final Judgment of Will Case in Alabama is Appendix B.

The final judgment on 15 August 2001 of the Alabama Circuit Court Will Case is Appendix C.

STATEMENT OF JURISDICTION

The judgment of the Circuit Court of Alabama was entered on August 15, 2001 (Appendix C). The judgment of the Supreme Court of Alabama denying Petitioner Godwin's Appeal was entered as Affirmed with no Opinion on February 22, 2002 (Appendix B). The Supreme Court of Alabama denied Godwin a timely Petition for Rehearing on April 19, 2002 (Appendix A).

The jurisdiction of this Court is invoked under 28 U.S.C. Section 1257.

STATUTES INVOLVED IN THIS CASE

The US Constitutional Amendment XIV provides that no State shall deprive any person of his Civil

Rights without due process of law nor deny the equal protection of the laws.

The US Constitutional Amendment VII provides that the right of Trial by Jury shall be preserved according to the rules of the common law.

Section 2 of the 1871 Civil Rights Act, 17 Stat., provided for the equal protection of the laws and this Act is enforced in

USC Title 42, Sec. 1985: Paragraph (2) provides that if two or more persons enter a court and conspires, injures, and threatens a citizen then that citizen, pursuant to Paragraph (3), may hold the conspirators accountable.

USC Title 42, Section 1983, provides that a citizen who is injured or deprived of his rights by a State rule or regulation shall have injunctive relief and redress.

USC Title 42, Section 1986, provides that a person having knowledge of the wrongs committed under Section 1985, and having power to prevent shall be liable.

USC Title 42, Section 1981, Statement of Equal Rights Under the Law

USC Title 18, Section 242, Deprivation of Rights Under Color of Law

STATEMENT OF THE CASE

In attempting to enforce his Civil Rights in the State of Alabama Courts, every Court in Alabama has DENIED Petitioner Godwin the right to seek any redress of the violation of Petitioner's Civil Rights.

Doris Nichols, a frail and weak widow, was under the care of her sister, Gwen Warren. The brother, Petitioner Julian Godwin, was also assisting. While attending Doris' physical ills at a hospital in Dothan, Alabama during August 1993, Gwen asked the Neurologist there to conduct mental examinations because of signs of incapacity shown by Doris.

Doctors there declared her mentally incompetent because of developing Alzheimer's Dementia. Doris' family doctors, after further tests, subsequently agreed to the diagnosis. Due to very poor physical and mental health, Doris had previously entrusted her personal estate and financial duties and responsibilities to Sister Gwen and Petitioner Godwin. Both were later named Guardians/Conservators after the Probate Court of Coffee County declared Doris incompetent.

Doris died in 1995 and Gwen, through proper Probate of a 1991 Last Will and Testament, was named Executrix soon after her death. Loftin Martin, Plaintiff in this Case, contested the 1991 Will and introduced a 1993 Will. Gwen contested and the 1993 Will was sent to Circuit Court of Coffee County.

Gwen also died in 1995 and the Probate Court of Coffee County Alabama named Petitioner Godwin, the brother of Doris, Personal Representative. An attorney arranged the paperwork with the Probate Court but was later dismissed. Petitioner Godwin then assumed the duties of Personal Representative of the Doris Nichols Estate without an attorney.

Godwin, maintaining that the 1991 Will was valid, contested the 1993 Will in Circuit Court. Godwin avers that Doris was coerced and cajoled into signing the 1993 Will since the Doctors' diagnosis essentially stated that Doris did not have the mental capacity to sign such an important document. Five years later, in September 2000, a newly named Circuit Court Judge declared Godwin was practicing law without a license. At a Court hearing on 29 September 2000, an Alabama Circuit Court Judge revoked the orders of the Coffee County Probate Court naming Godwin as Personal Representative of the Doris Nichols Estate. Godwin had previously continued his duties as Personal Representative under the scrutiny of the Probate Court Judge and the previous Circuit Court Judges without interference from them.

Godwin moved the Circuit Court Judge, during the hearing of 29 September 2000 (no court reporter recorded events of the Hearing), to name a REPLACEMENT Personal Representative. The motion was denied and the Court set a schedule

for a non-jury trial, without the Doris Nichols Estate being represented.

The Alabama Circuit Court Judge based his decision to disenfranchise Godwin as Representing the Doris Nichols Estate on an Alabama law that states a citizen cannot represent an estate without an attorney's license. This law is clearly repugnant to the Civil Rights of the Petitioner and the US Constitution that set up Civil Rights laws to protect citizens.

Gwen, the sister of Doris, and the Executrix of the Estate had previously demanded a Jury trial in the Alabama Circuit Court on the contest of the 1993 Will in a Case that was initially in the Probate Court. The Probate Court had denied the legality of the 1993 Will and held that the initial or 1991 Will was valid. Godwin had represented the Doris Nichols Estate as the duly appointed Personal Representative for five years since Gwen died but was relieved of that duty by the Circuit Court on 29 September 2000. Godwin, acting as himself, demanded a Jury trial and paid the jury fees on 9 October 2000, some 10 days after revocation of his personal representative status. The Circuit Court of Alabama held that the rules require payment of Jury Fees within 30 days of the initial action.

At a hearing in 6 December 2000 with court reporter present, Godwin was denied a Jury Trial on the basis that the jury fees should have been paid within 30 days of the initial action of 1995 and the Court proceeded to set up a non-jury trial

schedule. Petitioner Godwin averred that the time to pay jury fees runs from the date of the court hearing on 29 September to 9 October 2000, the day Godwin paid the jury fees.

This Case started in the Probate Court of Alabama and was sent to the Circuit Court at Plaintiff Martin's demand. The INITIAL action began in the Probate Court so there is ample confusion as when the proper time to pay Jury fees is required, or if ANY fees are required. NO fees were required by the Circuit Court when the Case was referred to the Circuit Court from the Probate Court. There is no confusion, however, about a citizen's rights for a Jury Trial supported by the US Constitutional Amendment VII. The non-jury trial held on 2 August 2001 is therefore voidable on the basis that a Jury trial was demanded by Petitioner Godwin, acting for himself and denied, and that the Circuit Court did not allow representation in any way of the Doris Nichols Estate at the non-jury trial. No testimony in representation of the Doris Nichols Estate by doctors attesting to Doris incompetent mental capacity when she signed the 1993 Will was allowed at the trial. The ISSUES recorded on the date of trial by the Circuit Court were false and misleading and Petitioner Godwin had previously OBJECTED. The Circuit Court went to trial on the Issues and denied recognition that 77 acres of prime farmland was part of the Doris Nichols Estate, illegally taken by coercion and undue influence.

In the Alabama Circuit Court hearing of 6 December 2000 (court reporter recorded proceedings), The Circuit Court Judge allowed two

non-parties to the Wills Case being heard to present papers and motions injurious to Petitioner Godwin. The motion asked the Court to deny a jury trial for Godwin on the basis it was too late. The Judge acted on the motion during the hearing and denied the jury trial. While in the courtroom, the Judge also allowed the two non-parties to threaten and conspire against Godwin resulting in grave injury and directly violated Godwin's Civil Rights of due process as well as denial of a jury trial.

Petitioner Godwin, in seeking help to carry on the Wills Case as himself, or Pro Se, made a motion to the court to have a member of Godwin's family help him in the Case and intervene by right. In a hearing on 30 January 2001 (court reporter recorded proceedings), the Circuit Court Judge denied the intervention without cause and violated Godwin's due process rights.

The non-jury trial was held on 2 August 2001 in the absence of Petitioner Godwin since Godwin's issues on Real Property were denied and Godwin could not represent the Doris Nichols Estate in any capacity.

Petitioner Godwin filed an Appeal on 28 August 2001 objecting to the Judgment of the 2 August 2001 trial.

REASONS FOR GRANTING THE WRIT

The Circuit Court of Alabama in a non-jury trial of 2 August 2001 made a judgment in a Wills Case

that directly violated the Civil Rights of Petitioner Godwin. The Alabama Supreme Court, upon Appeal by Godwin, affirmed the judgment of the Circuit Court without opinion. A Petition for a Rehearing of the Supreme Court of Alabama judgment was denied. Petitioner Godwin had held Personal Representative status for over five years given to him by the Probate Court to settle the Estate of his sister, Doris Nichols. An Alabama Circuit Court Judge summarily revoked this status citing an Alabama Law saying that Godwin could not represent the Estate without an attorney. This law, repugnant to the US Constitution, is questioned and should be overturned as violating Godwin's Civil Rights. At least four other Alabama Laws support, cited in arguments below, Godwin's rights to represent the sister's estate.

The Alabama Courts have allowed two people off the street to come into a hearing and conspire and threaten Godwin in a Court hearing thus denying Godwin his rights as protected by the US Constitution. In the Wills Case non-jury trial, the Judge summarily ignored valuable real estate (not included in the 1993 Will) owned by the Doris Nichols Estate, ignored Godwin's previous motions for a Jury trial, ignored Godwin's pleas for someone to represent the Doris Nichols Estate at the Trial, disallowed the presentation at the trial of Medical reports attesting to Doris Nichols incapacity when she signed the Will of 1993.

Throughout the three court hearings (only two were recorded), the Circuit Court Judge has systematically and with malice (with Alabama

Supreme Court approval), violated Godwin's Civil Rights. The arguments below will support the reasons for granting the writ.

ARGUMENT 1

THE ALABAMA SUPREME COURT VIOLATED ALABAMA RULES GOVERNING THE REPRESENTATION OF ESTATES

The Probate Court Orders, naming Julian C. Godwin Personal Administrator of the Doris Nichols Estate (Appendix D, page 7a) was REVOKED by Alabama Courts (Appendix E, page 10a). Such revocation violated the DUE PROCESS, US Constitution, Amend. XIV of Petitioner Godwin.

Revocation was based on a violation of Alabama Code 34-3-6, which does not allow a lay person to represent an Estate without an attorney. The Alabama Courts claim Petitioner Godwin was violating the Practice of Law provisions of the Alabama Code by representing his dead sister's Estate without an attorney (Appendix E, page 10a). Petitioner Godwin's attorney had previously petitioned the Probate Court to name him Personal Representative and the orders were issued (Appendix D page 7a). Godwin's attorney withdrew from the case and Godwin carried on representation of the Estate without an attorney.

Representation of the Estate by Godwin continued under authority of :

Alabama Code 43-2-27, the authority given to Alabama Courts to grant letters of Administration.

Alabama Code 43-2-272, the authority of the Probate Court to grant letters of Administration.

Alabama Code 43-2-42, the authority of the Probate Court to issue an Order of Grant of Administration.

Alabama Code 43-2-843, which gave Godwin the right to transact and conduct the settlement of the Estate either in Court or outside the Court.

Alabama Code 6-6-543, the authority giving Godwin the right to Settle Title to Lands.

Alabama Code 6-6-543, which specifies that a Trial by Jury was due Godwin to determine issues of title.

All of the Alabama Codes listed above, allowing Petitioner Godwin to represent his sister's Estate, does not specify that an attorney is necessary to conduct business of the Estate, including settlement of valuable Real Estate property belonging to the Estate.

ARGUMENT 2

THE ALABAMA SUPREME COURT RULING ON UPHOLDING AND AFFIRMING AN ALABAMA CODE PREVENTING CITIZENS FROM REPRESENTING ESTATES IS REPUGNANT TO THE US CONSTITUTION AND CIVIL RIGHTS OF PETITIONER GODWIN

Effective on 29 September 2000, The Alabama Courts order (Appendix E, page 10a) disenfranchised Petitioner Godwin from taking any

actions on behalf of the Doris Nichols Estate. Although the Probate Court of Coffee County had issued Personal Representative status to Godwin (Appendix D, page 7a) with authority to settle his sister's Estate, The Alabama Courts took away that authority resulting in violation of Godwin's Civil Rights. Amendment XIV of the US Constitution and Section 2 of the 1871 Civil Rights Act, 17 Stat., gives Godwin the Right by duly constituted authority, the Probate Court (Appendix D page 7a), to represent his Sister's Estate and to settle the Estate. Two motions were made to reconsider the decisions of the Circuit Court and the Alabama Civil Appeals Court (Appendices F and G). Both were dismissed: Appendix F, page 12 a) and Appendix G, page 13a).

A Writ of Mandamus in the Wills Contest Case was also filed in the Alabama Supreme Court against the Alabama Circuit Court Judge to seek remedy of the revocation of the Probate Court Order naming Godwin Personal Representative of the Doris Nichols Estate. The denial of the Writ is Appendix H, page 14a. The Circuit Court actions and the Alabama Supreme Court denial of the Writ of Mandamus directly violate provisions of the United States Code, Title 42, Section 1983, Civil Action for deprivation of Rights.

ARGUMENT 3

THE ALABAMA SUPREME COURT RULING AND AFFIRMING THAT A JURY TRIAL WAS DENIED IS REPUGNANT TO THE US AND ALABAMA CONSTITUTION

On 2 August 2001, a non-jury Trial was held (Appendix C, page 3a) and judgments held repugnant to the legal settlement of the Doris Nichols Estate. Petitioner Godwin had previously pleaded with the Circuit Court in three Court Hearings (one without a Court Reporter present and two with a Court Reporter) for a Jury Trial and these pleas are duly recorded. Godwin had also pleaded that any trial held includes the issue of the disposition of valuable Real Property. These issues were denied and the trial proceeded with limited issues (Appendix C, page 3a), previously objected to by Godwin, and without Petitioner Godwin being able to represent the Estate.

On 16 November 1995, Gwen Warren, contesting the introduction of the Second Will, had previously demanded a Jury Trial. After her death, Petitioner Godwin was named personal Representative of the Estate. On 29 September 2000, the Alabama Circuit Court revoked (Appendix E, page 10a) the Probate Orders (Appendix D,page 7a) naming Godwin Personal Representative of the Doris Nichols Estate . On 9 October 2001, *less than 30 days later,* Godwin paid the Jury fees and demanded a Jury Trial representing himself.

M. Dale Marsh, THE NON-PARTY to this Case in Circuit Court stated in the Circuit Court Hearing of 6 December 2001, that Godwin was FIVE years late in paying the Jury Fees . The Court acted on that statement and denied a Jury Trial . The Circuit Court, Judge King, by denying Godwin a Jury Trial, violated Godwin's Civil Rights; the US Constitution , Amendment VII, Right to Trial by

Jury, as well as Amendment XIV, Due Process; US Codes, Title 42, Sections 1983, 1981, 1986 and USC Title 18, Section 242.

The Circuit Court also, by DENYING a Jury Trial for Godwin, violated provisions of the Alabama Constitution, Article 1, Declaration of Rights, Sections1, 2, 6, 10, and *Section 11, Right to a Jury Trial,* and the Alabama Rules of Civil Procedure, Rule 38, Jury Trial of Right. The Alabama Code Section 43-8-190 allows a Jury Trial to settle issues and Alabama Code 6-6-543 provides for a Trial by Jury to determine issues of Title to Real Property.

Two motions were made by Petitioner Godwin in the Alabama Civil Appeals Court and the Circuit Court to reconsider the denial of the Trial by Jury. The Civil Appeals Court denied the reconsideration (Appendix G, page 13a) and the Circuit Court denied the reconsideration (Appendix F, page 12a).

A Writ of Mandamus in the Wills Contest Case was also filed in the Alabama Supreme Court against the Alabama Circuit Court Judge to seek remedy of the denial of a Jury Trial of the Probate Court Order naming Godwin Personal Representative of the Doris Nichols Estate. The denial of the Writ is Appendix H, page 14a. The Circuit Court actions and the Alabama Supreme Court denial of the Writ of Mandamus directly violate provisions of the United States Code, Title 42, Section 1983, Civil Action for Deprivation of Rights.

ARGUMENT 4

THE NON-JURY TRIAL BY THE ALABAMA CIRCUIT COURT HELD JUDGMENTS WITHOUT REPRESENTATION OF THE ESTATE AND IGNORED LARGE REAL ESTATE HOLDINGS OF THE ESTATE

The non-jury trial held on 2 August 2001 (Appendix C, page 3a) did not have anyone one representing the Doris Nichols Estate. After revoking the Probate Court orders naming Petitioner Godwin as Personal Representative of the Estate, Godwin reminded the Court that the Estate must be represented at the Trial and to name a successor personal representative. The Court ignored the plea and large real estate holdings belonging to the Doris Nichols Estate was ignored by the Court at the trial of 2 August 2001 (Appendix C, page 3a). By revoking the personal representative status of Petitioner Godwin, medical authorities and other witnesses were prevented from being called to testify for the Estate. Godwin was unable to PROTECT the ASSETS of the Estate he was named to represent. This action left the Estate of Doris Nichols UNREPRESENTED AND NO WITNESSES WERE ALLOWED TO BE PRESENT at the TRIAL to testify *for* the Estate of Doris Nichols, including Medical Doctors. Such testimony could have shown that Doris Nichols was under *undue influence and medically incompetent, when she signed a Second Will, what this case is all about.*

The Circuit Court Judge allegedly conspired with attorneys to disenfranchise Godwin, impeding,

hindering and obstructing Godwin's right to represent his dead sisters Estate, and protecting the Estate at the Trial. By improperly interpreting section 34-3-6 of the Alabama Code, The Circuit Court, pursuant to provisions of Section 2 of the 1871 Civil Rights Act, 17 Stat.13, "... or defeating the due course of justice in any State or Territory, with intent to deny to any citizen of the United States the due and equal protection of the laws, or to injure any person in his person or property...", did, intentionally, DENY Godwin of his Civil Rights. Such action also violated DUE ROCESS and provisions of the Alabama Constitution, Article 1, Declaration of Rights, Sections 1, 2, 6, 10, 11, and 13.

The Probate Court of Coffee County assigned Godwin his RIGHTS to protect the Doris Nichols Estate pursuant to provisions of Alabama Codes 43-2-27, 43-2-42, 43-2-272, 43-2-843, 6-6-540, and 6-6-543. At no time, during over the 6 years Godwin acted as Personal Representative, did Godwin Practice Law. The Circuit Court, by revoking orders (Appendix E, page 10a) of the Probate Court (Appendix D, page 7a), deprived Godwin of his Civil Rights. By using the provisions of Alabama Code 34-3-6, the Court *DEPRIVED Godwin of his Rights and violated USC Title 18, Section 242, Deprivation of Rights Under Color of LAW.* The Court also deprived Godwin of DUE PROCESS, guaranteed to Godwin by the US Constitution, Amendment XIV, by denying Godwin

representation of the Estate at the Circuit Court non-jury trial of 2 August 2001.

The Circuit Court Judge abused his Discretionary Powers by holding the non-jury trial and declaring a Second Will valid, that failed to include real PROPERTY OF 77 acres belonging to the Doris Nichols Estate.

In ANY Court, the Parties must agree to the Issues before going to Trial. The Court denied Godwin's Issue for Trial of the disposition of very valuable Real Property. The Court violated Appellant Godwin's Constitutional Rights of Due Process and impeded and obstructed Godwin's Civil Rights due him under Section 2 of the 1871 Civil Rights Act by going to a Non-Jury Trial and denying recognition of real property assets in the Doris Nichols Estate. By denying Godwin's Issues, the Circuit Court leaves undecided the ESTATE of Doris Nichols. The Second Will, which the Circuit Court validated on 2 August 2001, does not include 77 acres of Farmland Mack Nichols left to his Wife Doris Nichols. Doris had been forced and cajoled into signing away the 77 acres. The Husband's Will had not been probated. Doris Nichols did not own the property. The TITLE stayed with the Estate of Mack Nichols *and remains there.* Gwen Warren, sister of Doris, probated the Will of Mack Nichols, declared Executrix by the Probate Court of Coffee County and INHERITED the 77 Acres. The Circuit Court denied all attempts by Petitioner Godwin to have the Issues for Trial prior to the Trial corrected to include the 77 acres. This action by the Court, ignoring the valuable Real

Property Issue for Trial, violated the provisions of Alabama Code Sections 6-6-540, and 6-6-543.

A Writ of Mandamus in the Wills Contest Case was also filed in the Alabama Supreme Court against the Alabama Circuit Court Judge to seek remedy of the denial of valuable Real Property belonging to the Doris Nichols Estate. The denial of the Writ is Appendix H, page 14a. The Circuit Court actions and the Alabama Supreme Court denial of the Writ of Mandamus directly violate provisions of the United States Code, Title 42, Section 1983, Civil Action for deprivation of Rights.

ARGUMENT 5

THE CIRCUIT COURT OF ALABAMA ALLOWED TWO NON PARTIES TO ENTER A COURT HEARING AND CONSPIRE AND THREATEN PETITIONER GODWIN

The Alabama Circuit Court Judge allowed two non-parties to ENTER a Court Hearing and threaten and injure Appellant Godwin.

The two non-parties were allowed to present papers and motions injurious to Petitioner Godwin even though the two were not parties to the Case being heard. A Motion was presented to the Court that demanded that the Court DENY Godwin a Jury Trial. The Court acted on the Motion by the two non-parties. While in the courtroom, the two non-parties threatened Godwin. Such grave

violations of Godwin's Civil Rights struck at the heart of Godwin's US Constitutional rights of due process, and Alabama Constitution of 1901, Sections 6 and 13. By such acts, the Alabama Circuit Court is guilty of violating provisions of USC Title 42, Section 1985, Conspiracy to Interfere with Civil Rights. The Judge violated provisions of USC Title 42, Section 1986, Action for Neglect to Prevent.

ARGUMENT 6

THE CIRCUIT COURT OF ALABAMA DENIED PETITIONER GODWIN THE RIGHT TO HAVE CLOSE KINSHIP INTERVENE IN CONTESTING THE SECOND WILL

The Alabama Circuit Court Judge DENIED a member of the Godwin family to Intervene by Right in the Wills Case.

The Circuit Court, by DENYING intervention of a member of the Godwin Family, Robert L. Godwin, Jr., in this Wills Case, seriously hampered the rights of Godwin to obtain justice. The Court also threatened the nephew, Robert L. Godwin, Jr. with JAIL. Such *ABUSE of Discretionary Power,* strikes at the core of the rights of individuals seeking fair treatment in an American Court of Law. The Circuit Court, by such actions, violated the provisions of the US Constitution, Amendment XIV, Due Process, by not allowing Appellant Godwin to seek a fair remedy to the Wills Case. The Court violated provisions of USC Title 42, Section

1986, by purposely neglecting to provide Godwin all legal avenues to a fair and just remedy.

The Circuit Court, by denying intervention of a member of the Godwin family in this Wills case, violated the ALABAMA Constitution of 1901, Article 1, Section 10, Right to Prosecute a civil case, and Section 13, which provides Appellant Godwin with authority to seek an impartial remedy in an Open Court. The Circuit Court erred by violating provisions of Alabama Code 41-22-14, and ACRP Rule 24a, Intervention by Right.

CONCLUSION

Whether Petitioner Godwin's Civil Rights have been violated and if Godwin was subjected to the deprivation of his rights and privileges or immunities secured by the US Constitution and laws in the adjudication of the Wills Case in the Alabama Courts is a question of exceptional importance. It should therefore be settled by this Court. Petitioner Godwin respectfully requests that this petition for a writ of certiorari be granted.

Respectfully submitted,

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APPENDICES

Appendix A

IN THE SUPREME COURT OF ALABAMA

STATE OF Alabama—JUDICIAL DEPARTMENT
The Supreme Court

April 19, 2002

1010268

Julian C. Godwin v. Loftin Martin (Appeal from Enterprise Division of Coffee Circuit Court: CV 95-248)

ORDER

The application for rehearing filed in this cause is overruled.

Overruled-No Opinion

ATTEST:

Robert G. Eastdale
Clerk, Supreme Court of Alabama

Appendix B

Released
Feb 22 2002
Clerk
Supreme Court of Alabama

STATE OF Alabama—JUDICIAL DEPARTMENT
The Supreme Court

October Term, 2001-2002

1010268

Julian C. Godwin v. Loftin Martin (Appeal from Barbour Circuit Court: CV 95-248)

PER CURIAM.

AFFIRMED. NO OPINION

See Rule 53(a)(1) and (a) (2) (F), Ala. R. App. P.

Moore, C.J. and Houston, Lyons, Johnstone, and Woodall, JJ., concur.

ATTEST

Robert G. Eastdale
Clerk, Supreme Court of Alabama

Appendix C

IN THE CIRCUIT COURT FOR COFFEE COUNTY ALABAMA

CIVIL ACTION NO. CV-95-248

GWEN WARREN,
CONTESTANT PLAINTIFF
V.
LOFTIN MARTIN,
PROPONENT DEFENDANT

CONTEST OF WILL OF DORIS G. NICHOLS, deceased, Transferred from the Probate Court of Coffee County, Alabama,Enterprise, Division (formerly PR-95-65)

JUDGMENT

On July 12, 1995, Loftin Martin filed his Petition to Probate the Will of Doris G. Nichols, deceased, in the Probate Court of Coffee County, Alabama, Enterprise Division. Shortly thereafter, the Probate Court entered an Order denying the Petition and the matter was transferred to the Circuit Court of Coffee County. The Will of Doris G. Nichols, dated December 10, 1993, was contested by Gwen Warren individually and in her capacity as Personal Representative of the Estate of Doris G. Nichols, and by Julian C. Godwin, in both a representative capacity as Administrator de Bonis Non Will annexed and in his individual capacity.

Gwen Warren is now deceased. At a prior hearing the Court ruled that Mr. Godwin was not allowed to appear Pro Se in representative capacity because such representative capacity would violate Section 34-3-6 of the Code of Alabama, 1975. Mr. Godwin was allowed to appear Pro Se to contest the Will. At a prior hearing the parties agreed and stipulated to the Court that the issues before the Court on the Will Contest were as follows:

1.Did Doris G. Nichols lack the required testamentary capacity to execute the Will dated December 10, 1993?

2.Was the Will dated December 10, 1993, the product of influence?

On August 2, 2001, the Court tried the case on these issues between Proponent Martin and Contestant Godwin. Contestant Godwin, who was duly notified of trial date, failed to appear. The Court heard the testimony of Attorney M. Marsh, who prepared the Will at the direction of Doris G. Nichols, Ms. Rynnene Pfeifer, a Notary Public, who took the acknowledgements of Ms Nichols, the testator, and Ms. Jackson, Ms. Watson, the witnesses, as well as other witnesses who knew Ms. Nichols and who had contact with her during the time period in which the Will of Doris G. Nichols, deceased, dated December 10, 1993, offered for Probate as aforesaid, was properly and duly executed, that Ms. Nichols possessed sufficient testamentary capacity at the time of the Will, that the Will was not the product of any

undue influence and that the Will contest of Julian C. Godwin is not well taken.

Accordingly, it is

ORDERED, ADJUDGED AND DECREED by the Court, and it is the judgment of the Court that the instrument in writing, dated December 10, 1993, offered into evidence before the Court and purporting to be the Last Will and Testament of Doris G. Nichols, deceased, signed by the testator, attested to by Nancy Watson and Laura G. Jackson, acknowledged before Rynnene Pfeifer and offered for probate in the Probate Court of Coffee County, Alabama, Enterprise

Division,by Loftin G. Martin, is the legal and valid Last Will and Testament of the said Doris G. Nichols, deceased. It is further

ORDERED, ADJUDGED AND DECREED that the Clerk of the Circuit Court of Coffee County, Alabama, Enterprise Division, shall forthwith certify the transcript of this judgment, together with all and singular papers and documents certified to this Court by the Probate Court, and forward the same back to the Probate Court, there to be recorded and proceed in the manner required by the laws of the State of Alabama. The probate Judge is directed to instanter admit the Last Will and Testament of Doris G. Nichols, dated December 10, 1993.to probate and record, and to issue Letters Testamentary to Loftin G. Martin. It is further

ORDERED, ADJUDGED AND DECREED that the Order of the Probate Court dated July 10, 1995, admitting the purported Last Will and Testament of Doris G. Nichols dated September 23, 1991, is hereby revoked, set aside, and voided; that the Letters Testamentary heretofore issued to Gwen G. Warren in regard to the Will dated September 23, 1991, are hereby revoked, set aside, and voided; that the Order of the Probate Court dated March 1, 1996, appointing Julian C. Godwin Administrator de Bonis Non with Will annexed is hereby revoked, set aside, and voided and that the Probate Court of Coffee County, Alabama shall direct Julian C. Godwin to immediately make a full accounting of all assets and expenditures of the estate of Doris G. Nichols, deceased. It is further

ORDERED, ADJUDGED AND DECREED that the Probate Court of Coffee County shall cause the indices to records therein to clearly reflect that the Will of Doris G. Nichols which was dated September 23, 1991, is revoked, set aside, and voided; that Letters of Testamentary issued to Gwen G. Warren are revoked; that the appointment of Julian C. Godwin as Administrator de Bonis Non is revoked; and that Letters of Administration issued pursuant to said appointment are revoked.

Done and **ordered** this the 15th day of August 2001.

Signed:
William R. King
Circuit Judge

APPENDIX D

IN THE PROBATE COURT FOR
COFFEE COUNTY ALABAMA
ENTERPRISE DIVISION

RE: ESTATE OF DORIS G. NICHOLS,
Deceased

CASE NO. PR

95-63

ORDER APPOINTING ADMINISTRATOR DE BONIS NON WITH WILL ANNEXED

Julian C. Godwin having filed his Notice of Death and petition to Appoint Successor Personal Representative and same having considered and understood, it is **ORDERED** as follows:

1. Doris G. Nichols having Died June 27, 1995 leaving a Last Will and Testament dated September 23, 1991 naming Gwen Warren as Executrix of her Estate, Gwen Warren was appointed Executrix of the Estate of Doris G. Nichols by order of this Court with Letters Testamentary being Issued July 10, 1995. Under the provisions of the September 23, 1991 Last Will and Testament, there were no principal legatees and the only residuary legatee was Gwen Warren, Mack c. Nichols having predeceased Doris G. Nichols. The Court is now notified of the death of Gwen Warren, the sole executor appointed under the provisions of the September 23, 1991 Last Will and Testament. It is, therefore, the duty of Probate Court under §43-2-

272, Code of Alabama, to grant Letters of Administration With Will Annexed to the person entitled thereto under §43-2-27, Code of AlabamaUnder the provision of §43-2-27, Code of Alabama, there is no principal legatee and both residuary legatees, namely, Mack C. Nichols and Gwen Warren, are deceased. There fore, it is the duty of this Court to grant Letters of Administration
With Will Annexed to the same person and in the same order as set forth in § 43-2-42, Code of Alabama. Having considered the Verified Notice of Death and Petition to Appoint Successor Personal Representative and/or Administrator filed by Julian C. Godwin, Julian C. Godwin is the next of kin entitled to share in the distribution of the Estate. It is, therefore, **ORDERED** that Julian C. Godwin be, and hereby is, appointed Administrator, de Bonis Non, with Will annexed of the Estate of Doris G. Nichols, deceased, pursuant to § §43-2-272, 43-2-27 and 43-2-42, Code of Alabama.

2.Letter of Administration shall be issued subject to the priorities stated in §43-8-76, Code of Alabama (1975, as amended), the said Administrator, acting prudently for the benefit of interested persons, has all the powers authorized in transactions under §43-2-843, Code of Alabama, (1975, as amended), except for the limitations as follows:

> General powers granted by §43-2-843, Code of Alabama may only be exercised with prior court approval.

3. Since this appointment is an Administrator, de Bonis non, and since the Last Will and Testament dated September 23, 1991 exempted only the named executors from giving a bond, this Court is required to and does required the Administrator, de Bonis non, pursuant to §43-2-851, Code of Alabama to furnish a bond payable to the Judge of Probate conditioned upon faithful discharge of all duties of the trust according to law, such bond must be in the amount of the aggregate capital value of any securities deposited under order and the value of any land which the Administrator, pursuant to §43-2-843 Code of Alabama, lacks power to sell or convey without Court authorization. Therefore, the Court

ORDERS Julian C. Godwin, as Administrator de Bonis non, to seize the assets or property of the Estate and to file an inventory or accounting, within ninety (90) days, of the assets or property of the Estate in his control in order that an appropriate bond may be set.

DONE this 1st day of March, 1996.

Signed:
William O. Gammill
Probate Judge

APPENDIX E

ALABAMA JUDICIAL LAW CENTER
CASE ACTION SUMMARY CONTINUATION
CIRCUIT CIVIL

IN THE CIRCUIT COURT OF COFFEE COUNTY

IN THE MATTER OF THE ESTATE OF
DORIS NICHOLS:
Filed: 07/13/1995 Type: Will Contest
Type Trial: Non-Jury
Date: 09/27/2000
Dated:

09-29-00 The Court, on its own motion, does hereby
strike the Cartoons heretofore filed in this matter by Julian Godwin and directs the Clerk to remove them from the file and place them in a suitable place, elsewhere, for safe keeping pending the further orders of this court.

Signed:
Judge William R. King

09-29-00 The Motion of Julian Godwin to Add Defendant of 7-10-00 is denied.

Signed:
Judge William R. King

09-29-00 - On the oral motion of Julian Godwin, he is hereby authorized to represent himself, as an individual, in any and all cases pending in this court in which he is a party individual. In no way should this order be construed or interpreted so as to allow Mr. Godwin to represent any other

individual or entity, including himself, in any capacity other than as an individual.

Further, Mr. Godwin is hereby permitted to become a party contestant, as an individual, in 95-248, only to represent himself.

Judge William R. King

Clerk is directed to serve a copy of the above on all attorneys.

WRK

09-29-00 Pursuant to the conference of the parties to this and other cases held on Sept. 29, 2000, this case is set for trial on November 13, 2000 at 9:00 Am. There shall be no further pleadings allowed as the Trial issues have been agreed upon and are hereby limited to the mental capacity of the Testatrix and whether or not she was unduly influenced in the making and execution of the will. It is further ordered that the attorneys, whether pro se or not, shall exchange a list of the witnesses that they intend to call to testify at trial no later than November 3, 2000.

WRK

09-29-00 The clerk is directed to issue a copy of the foregoing on all attorneys, whether pro se or not.

WRK

Appendix F

IN THE CIRCUIT COURT OF COFFEE COUNTY
ALABAMA-ENTERPRISE DIVISION

IN RE: The Doris Nichols Estate
CASE No. CV 95-248

ORDER

In respect to the Motion for Continuance, filed with the Court and in facsimile form, the Court hereby **orders** that the hearing heretofore set to hear the Motion to Intervene of Robert L. Godwin, Pro Se, be and is hereby continued until January 30, 2001, at 10:00 A.M.

For the information of the parties and attorneys hereto, this Court shall not consider any motion, which has not been properly filed with the Clerk of this Court.

Further, the Clerk of this Court is instructed to disregard and discard any pleading filed by any party or attorney in this matter, which is in facsimile form as per the Rules of Alabama Civil Procedure.

Further, upon review of Julian C. Godwin's Motion to Reconsider, the Court is aware that said Motion is in the Court of Civil Appeals and the **ORDER** setting same for hearing in this Court is hereby set aside and held for naught.

DONE this 18th day of January, 2001.

Signed:
Judge William R. King

Appendix G

January 30, 2001

THE COURT OF CIVIL APPEALS OF ALABAMA

RE: 2000078

Julian C. Godwin v. Loftin Martin (Appeal from Coffee County Circuit Court: CV 95-248).

You are hereby notified that the following action was taken in the above cause by the Court of Civil Appeals:

Appellant's motion to reconsider dismissal of appeal is treated as an application for rehearing and as such is overruled as untimely filed.

signed
John H. Wilkerson, Jr., Clerk
Court of Civil Appeals

Court of civil Appeals
300 Dexter Avenue
Montgomery, AL 36104-3741
(334) 242-4095

Appendix H

IN THE SUPREME COURT OF ALABAMA
March 23, 2001

1000947

Ex parte Julian C. Godwin. PETITION FOR WRIT OF MANDAMUS (In re: Loftin Martin v. Julian C. Godwin) (Coffee (Enterprise Div.) Cir.Ct.No.: CV-95-248)

ORDER

The petition for writ of mandamus to be directed to the Honorable William R. King, Judge of the Circuit Court of Coffee County, Alabama, Enterprise Division, having been duly filed and submitted to the Court,

IT IS ORDERED that the petition for writ of mandamus be denied.

Moore, C.F., and Houston, See, Lyons, Johnstone, Harwood, Woodall, and Stuart, JJ., concur.

signed
Robert G. Easdale
Clerk, Supreme Court Of Alabama